IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

DONNA CURLING, et al.,

:

Plaintiffs, :

v. : CIVIL ACTION NO. : 1:17-CV-2989-AT

BRIAN P. KEMP, et al.,

:

Defendants. :

ORDER

Vincent Russo, counsel for Representative Karen Handel, emailed the Court this afternoon and copied all parties regarding Ms. Handel's involvement in this case. In the email, Mr. Russo acknowledges that Plaintiffs' counsel confirmed that they "have eliminated all causes of action against Representative Handel via their Second Amended Complaint and do not intend to involve Representative Handel in this case going forward." Nevertheless, Mr. Russo states that Plaintiffs have not filed to dismiss her under Rule 41(a)(1), and that counsel is entitled to attorneys' fees "[s]ince she has not been dismissed from the action." Mr. Russo references the September 20, 2017 conference call with the Court and all the parties regarding Ms. Handel's status in the case. He goes on to request either a voluntary or involuntary dismissal of Ms. Handel based on the Second Amended Complaint as well as attorneys' fees. Otherwise, Mr. Russo

states that Ms. Handel will respond to the Second Amended Complaint on Monday, October 2nd. (Email from Vincent Russo to the Court on September 28, 2017 at 1:28 P.M.)

The very reason the Court scheduled the September 20th phone conference was to determine whether Ms. Handel was still a party to the case in light of Plaintiffs' Second Amended Complaint. This is apparent from the meeting minutes entered the same day:

Plaintiffs stated that they did drop the contest claim in the recently filed amended complaint and that there were no remaining claims against Karen Handel. Counsel for Handel contended that she should thus be dismissed as a party. By Tuesday, September 26, 2017, the Plaintiffs are to provide Handel's attorney, and notify the Court, as to Plaintiffs' position re the claims against Handel.

(Doc. 76.) Accordingly, on September 26th, Plaintiffs' counsel emailed the Court and all parties confirming that there were no pending claims against Ms. Handel that warranted her continued participation in the case. (Email from Edward B. Schwartz to the Court on September 26, 2017 at 12:03 P.M.)

Ms. Handel is no longer a party to this case as of the Second Amended Complaint. She is not required to file any response to the Second Amended Complaint, let alone participate in this case going forward. There is nothing to dismiss. And therefore there is no basis for Mr. Russo's motion.

The Clerk of Court is **DIRECTED** to immediately terminate Ms. Handel as a party in this case, so that the docket reflects that the Second Amended

Complaint brought no claims against Ms. Handel and did not name her as a party defendant.

IT IS SO ORDERED this 28th day of September, 2017.

Amy Totenberg

United States District Judge